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*President:* Mr. Schulz (Vice-President) ..... (Germany)

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*The meeting was called to order at 10.10 a.m.*

**Agenda item 9: Special economic, humanitarian and disaster relief assistance** (*continued*)

*Panel discussion: "Reaching people in need and promoting respect for international humanitarian law and humanitarian principles"*

1. **The President** said that the objective of the high-level panel discussion was to reflect on the role and practical implementation of international humanitarian law and humanitarian principles in the delivery of humanitarian assistance in armed conflicts. The panel would also examine how States could use their influence to ensure respect for those laws and principles in the delivery of assistance and to enhance the protection of civilians, which should be accorded the highest priority. It was essential to have full, rapid, unimpeded and sustained humanitarian access to conflict zones, and the international community should do its utmost to ensure the safety of humanitarian personnel and materials.

2. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator), moderator, said that practical measures were needed to boost compliance with international humanitarian law and humanitarian principles. The parties to conflicts in many parts of the world frequently imposed severe and widespread restrictions, including bureaucratic constraints, on access, which jeopardized the delivery of humanitarian assistance, notably in the Syrian Arab Republic, Nigeria, Somalia, South Sudan and Yemen. Violence and threats against aid workers regularly forced aid agencies to reduce or suspend their activities. The Aid Worker Security Database showed that 249 aid workers had been killed, kidnapped or seriously injured in 2016, while records from the World Health Organization for the same year revealed that 863 medical personnel had been killed or injured in 20 conflict-affected countries.

3. Attacks on civilians were becoming increasingly common, precipitating disease, displacement and hunger. All parties to armed conflicts had obligations to respect and protect the sick and wounded and medical units. The Security Council of the United Nations, in its resolution 2286 (2016) on the protection of civilians in armed conflict, had called for full compliance with those obligations and requested that the Secretary-General provide recommendations identifying practical measures to ensure the implementation of the resolution. Humanitarian efforts must remain distinct from political or military objectives and be conducted in line with the principles of humanity, impartiality, neutrality and independence.

4. A report on presence and proximity in humanitarian assistance, to be launched that day, stressed how important it was for humanitarian organizations to obtain consent for their operations from the parties to conflicts and to adapt those operations to the environment in which they were being conducted. Member States must not impede interaction between humanitarian actors and all relevant parties, including non-State armed groups. All States had a responsibility to ensure respect for international humanitarian law and must not provide funding, weapons or training to groups that might violate it. The 2017 report of the Secretary-General on the protection of civilians in armed conflict (S/2017/414) included enhanced respect for international law among its protection priorities and indicated that the Secretary-General would facilitate a global effort to mobilize Member States, civil society and other stakeholders to enhance respect for international law and strengthen protection for civilians in conflict zones.

5. Launching the panel discussion, he asked which basic rules of international humanitarian law served to ensure that civilians received the humanitarian assistance they needed and how those rules were being violated.

6. **Ms. Durham** (Director, International Committee of the Red Cross (ICRC)), panellist, said that there were four main pillars of international humanitarian law. Firstly, each party to an armed conflict bore the primary responsibility for meeting the basic needs of the population under its control. Secondly, impartial humanitarian organizations had a legal right to offer to provide humanitarian services. Thirdly, humanitarian action in armed conflict situations was subject to the consent of the parties to the conflict. Lastly, once

consent had been obtained, the parties to the conflict and all States were expected to facilitate the rapid and unimpeded passage of relief workers and materials.

7. The nature of armed conflict was changing. ICRC had identified a number of key issues that posed challenges to the delivery of aid. Armed conflicts were becoming increasingly protracted and were occurring more frequently in urban areas. They also increasingly involved fluid and fragmented non-State armed groups. In some cases, parties to conflicts were unaware of their obligations or rejected them entirely. Counter-terrorism and security issues also came into play.

8. **Mr. Munn** (Director of Humanitarian Policy, Norwegian Refugee Council), panellist, said that conflicts in urban areas and constantly shifting borders and conflict lines presented huge challenges for humanitarian actors. Aid workers on the ground often had a much more in-depth understanding of the difficulty of communicating the core principles of humanitarian aid when negotiating access. Discussion of those issues should take place in locations closer to conflict zones as well as in Geneva. In 2016, the Norwegian Refugee Council had reached out to as many field locations as possible. The report on presence and proximity made it clear that, without principled proximity, it was not possible to protect vulnerable people.

9. The principle of neutrality meant that negotiations could be conducted with parties on both sides of a conflict. The obstacles to being seen as impartial and independent needed to be identified: sometimes aid organizations were viewed as instruments of the State or as espousing Western values. Humanitarian action required a range of skills and it should not be expected that all actors across the sector would undertake all activities. Only a small number of agencies had the skills and experience to negotiate access; those that did not should not receive criticism if they did not take part in negotiations. National agencies should not be expected to have the same capacities as international agencies.

10. **Mr. Dare** (Head, Humanitarian Affairs, Refugees and Internally Displaced Persons Affairs Division, African Union Commission), panellist, said that the humanitarian picture in Africa remained challenging, with many low-intensity conflicts that continued to displace large numbers of people. The continent as a whole currently had 4.5 million refugees and 12.8 million internally displaced persons.

11. In order to mitigate the effects of weak disaster management mechanisms, the African Union had put in place a number of legal and policy instruments, including the Protocol relating to the Establishment of the Peace and Security Council of the African Union, to help forge common understanding in conflict situations. Every communiqué issued by the Peace and Security Council contained a reminder that all parties to a conflict had international legal obligations to protect civilians. Other key instruments included the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), which specifically recognized the obligations of non-State actors towards civilians during conflicts, and the African Union Guideline on the Role of the African Standby Force in Humanitarian Action and Natural Disaster Support. Member States of the African Union were regularly reminded of their obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

12. In the African context, it was important to recall that both States and non-State actors had obligations to facilitate humanitarian access when failure to do so might lead to starvation or otherwise threaten the survival of the civilian population. The current near-famine situations in Somalia, South Sudan and north-eastern Nigeria had been brought about by conflict-related human activity. It was his understanding that the Constitutive Act of the African Union was the only text in international law that made provision for the use of military assets for humanitarian intervention. African leaders wanted to see States take full responsibility for the application of the provisions of international humanitarian law in connection with the protection of civilians. He was hopeful that progressive development would ensure that the protection of civilians would become a peremptory norm of international law from which there would be no derogation.

13. **Ms. Decrey-Warner** (President, Geneva Call) said that the consultations leading up to the World Humanitarian Summit in Istanbul, while generally inclusive, had not involved armed non-State actors, despite them playing a key role in many conflicts around the world.

On that occasion, Geneva Call had published a study which showed that, generally speaking, such groups understood and accepted the need for humanitarian action but were often unaware of the rules of international humanitarian law and so did not adhere to them. Moreover, some armed non-State actors viewed humanitarian organizations and workers with suspicion, thinking them spies, and many of them believed that humanitarian actors should request permission before commencing their activities. There was also a divergence of opinion among armed non-State actors on the nature of their responsibilities towards civilians, based on how they defined civilians, the degree of control that they exercised over a given territory, the dynamic of the conflict to which they were a party and their overall objective. It was worth mentioning that some armed non-State actors had even created their own relief programmes and endeavoured to deliver humanitarian assistance in areas under their control.

14. The study concluded that there was a need to educate armed non-State actors about international humanitarian law and humanitarian principles so as to prevent interference in the delivery of humanitarian assistance. There must be engagement with them from the outset, not only when there was an urgent need for humanitarian assistance, as a relationship based on trust took time to build. Humanitarian actors should ensure that they abided by the core humanitarian principles in the conduct of their activities, as any perceived lack of neutrality could lead to humanitarian assistance being blocked and expose them to threats or violence. Although the international humanitarian community may not always agree with the requests made or terms of engagement set by armed non-State actors, it should not lose sight of its priority, which was the timely delivery of humanitarian assistance to people in need.

15. **Mr. Jochum** (Director General, Médecins sans frontières Switzerland) said that, while attacks on medical personnel could sometimes be attributed to ignorance of international humanitarian law, they were frequently a deliberate part of a premeditated military strategy. In the absence of a robust response from States, the situation would only deteriorate further, jeopardizing the future of humanitarian action in conflict situations. He deplored the lack of progress made in implementing Security Council resolution 2286 (2016) on the protection of civilians in armed conflict and in giving effect to the Secretary-General's recommendations on that subject. States should take practical measures to fully implement the resolution and fulfil their obligation to protect civilians in conflict situations.

16. The main challenges encountered by Médecins sans frontières Switzerland in the field stemmed from indiscriminate violence towards civilians and public service infrastructure, and military strategies aimed at depriving sectors of the population of medical care. The reality was that, despite the purpose and scope of humanitarian action being defined in international humanitarian law, it was only tolerated by belligerents when it did not run counter to their objectives. Humanitarian agencies were often unable to reach populations in need on account of belligerents obstructing their activities, and hospitals and medical personnel continued to be targeted by groups who considered that the act of providing medical care was not impartial. Médecins sans frontières Switzerland was particularly concerned by the growing tendency, especially in States with repressive regimes, to criminalize the provision of certain forms of humanitarian assistance in conflict areas, with medical personnel accused of providing material support to terrorists or of complicity in their activities. Provisions of States' domestic legislation frequently prioritized national security interests and authorized permissive counter-terrorism measures, often to the detriment of humanitarian workers in conflict situations. In some States, the mere act of establishing contact with armed non-State actors constituted a criminal offence and could expose medical personnel to threats and retaliatory action. However, the delivery of impartial humanitarian assistance could not take place if humanitarian organizations could not speak to all the parties to a given conflict, including armed non-State actors.

17. In order to improve the prevailing humanitarian situation, States needed to show greater political will to implement Security Council resolution 2286 (2016) and the related recommendations of the Secretary-General by, *inter alia*, updating their domestic legislation, military manuals and operating procedures. States should also devote more efforts to creating spaces for dialogue where belligerents, including armed non-State actors, humanitarian actors and State representatives could meet to assess the impact of hostilities

on civilians, to discuss the possibility of ceasefires to facilitate the evacuation of the wounded and to clarify what constituted a legitimate target in the conflict. There was also a need to introduce mechanisms for gathering objective and reliable information on recent developments in conflict situations, given the implications for the roll-out of humanitarian assistance activities in the field. States should not equate the provision of impartial medical care to persons in need with the provision of material support to their enemies. Médecins sans frontières Switzerland had adopted a number of practical measures to protect its medical personnel, including a no-weapons policy and a special protocol for the arrest or interrogation of persons receiving treatment in its facilities. The number of attacks on medical facilities and personnel could be reduced if all belligerents acted with restraint, engaged in dialogue and fulfilled their obligation to protect civilians.

18. **The observer for the State of Palestine**, noting that a lack of awareness among parties to a conflict of the purpose of the work of impartial humanitarian organizations often hampered the delivery of humanitarian assistance, said that, in the Occupied Palestinian Territories, the presence of Israeli checkpoints prevented medical personnel from reaching people in need. He asked what more ICRC could do to educate occupying forces about international humanitarian law and the need to respect it.

19. **The representative of the United Kingdom** said that the United Kingdom welcomed the efforts of humanitarian organizations to promote respect for international humanitarian law and the core humanitarian principles. However, more needed to be done before the outbreak of hostilities to raise the awareness of armed non-State actors of their obligation to comply with international humanitarian law and of their responsibilities towards civilians. There should be no impunity for parties to a conflict who violated international humanitarian law. The United Kingdom supported the work of the International Criminal Court and other ad hoc criminal tribunals in bringing the perpetrators of such violations to justice. It was an unfortunate reality that medical personnel working for ICRC and other humanitarian organizations continued to pay the ultimate price as they attempted to deliver impartial medical care on the battlefield. States should step up their efforts to implement Security Council resolution 2286 (2016), to stop indiscriminate attacks on medical facilities and personnel and to facilitate humanitarian access during conflict. It would be interesting to hear more about how the international humanitarian community ensured that core humanitarian principles were upheld in the light of the politicization of aid, especially in protracted crisis situations where humanitarian and development actors were required to work in parallel.

20. **Ms. Durham** (Director of International Law and Policy, International Committee of the Red Cross (ICRC)) said that it was no longer sufficient to explain the letter of international humanitarian law to States, military personnel and non-State armed groups without also explaining its value and how it could assist them in reconciling military necessity with the principle of proportionality. International humanitarian organizations needed to engage with the parties to a given conflict in order to gain a better understanding of the tensions that existed between them. States had a duty to ensure that the content of Security Council resolution 2286 (2016) was conveyed to military personnel, including soldiers operating checkpoints. ICRC had a global network of armed and security forces delegates who trained military personnel to pay attention to humanitarian concerns while performing their role, including by granting medical personnel access to persons in need in a timely manner and delaying the questioning of suspects until they had received medical care. The international community should give thought to how to ensure humanitarian access to provide not only assistance but also protection.

21. **Mr. Jochum** (Director-General, Médecins sans frontières Switzerland) said that the politicization of aid in contexts where humanitarian, development and peacebuilding activities were being conducted in parallel represented a huge challenge, as stakeholders would not normally accept principled humanitarian assistance if it was linked to broader political objectives, such as development and peacebuilding, which were the exclusive domain of States. The possibility of delivering impartial humanitarian assistance must be safeguarded in such contexts. In protracted crisis situations, there was seldom scope for creating a nexus between development, humanitarian and peacebuilding activities owing to

the scarcity of actors on the ground and the lack of an enabling environment. Increased dialogue among stakeholders was the first step towards addressing that situation.

22. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator), moderator, noting that some stakeholders considered humanitarian principles to be a Western concept, asked whether such an interpretation might hinder negotiations with some State and armed non-State actors and if efforts were being made to document good practice in that connection.

23. **Mr. Munn** (Director of Humanitarian Policy, Norwegian Refugee Council) said that humanitarian action could be hampered not only by the politicization of aid when humanitarian, development and peacebuilding activities were conducted in parallel, but also by restrictive counter-terrorism policies, especially in areas controlled by non-State armed groups. The Norwegian Refugee Council was working to educate stakeholders about the scope and implications of the most restrictive or political measures. There was a need to dispel the erroneous perception of humanitarian principles as a purely Western concept. Research conducted by ICRC clearly demonstrated that core humanitarian principles were embedded in the cultural norms and values espoused by nearly all faith groups, although the interpretation of those principles might vary among State and non-State actors and among givers and receivers of humanitarian assistance.

24. The obstacles facing humanitarian organizations in the field and their best practices for overcoming them were well documented, but needed to be synthesized into a form that could be used on the ground. The vast majority of the 12,000 staff employed by the Norwegian Refugee Council were local recruits, with the result that negotiating delegations were made up of people who were already familiar with the local context and prevailing cultural norms. International humanitarian organizations needed to draw upon the experience of local actors and establish best practices that could be applied across a variety of humanitarian contexts.

25. **Ms. Decrey-Warner** (President, Geneva Call) said that Geneva Call approached crisis situations in which key stakeholders were reluctant to accept what they considered to be Western humanitarian principles by gaining an understanding of and adhering to the principles that the stakeholders themselves espoused and thus promoting a sense of ownership in the negotiation process. It was worth pointing out that a discussion on how best to engage with armed non-State actors would not have been possible 10 years previously. Over time, the international humanitarian community had come to understand that, as armed non-State actors were often part of the problem, they should also be part of the solution. The negative consequences for humanitarian actors of criminalizing contact with armed non-State actors, who were often considered terrorists, should not be underestimated. Community-based civil society organizations, which often wielded significant influence, were reluctant to approach such groups for fear of arrest and criminal consequences. States should recognize that such engagement had a legitimate purpose and facilitate, rather than obstruct, the work of Geneva Call and other international humanitarian organizations.

26. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator), moderator, noting that States had an obligation to ensure respect for international humanitarian law, said that he wished to know what that obligation entailed for States that were not party to a particular conflict.

27. **Mr. Dare** (Head, Humanitarian Affairs, Refugees and Internally Displaced Persons Affairs Division, African Union Commission), panellist, said that, while the tactical and operational approach to such matters taken by the African Union might differ from that adopted elsewhere, certain limits and principles should apply to all forms of warfare. Perpetrators of serious crimes had to be held to account, irrespective of whether the States of which they were nationals had signed a particular treaty. For that reason, all the communications issued by the Peace and Security Council of the African Union referred to the obligations imposed by international humanitarian law on both State and non-State actors. The role played by non-State actors in conflicts was recognized in the Kampala Convention, which had been adopted in 2009. In recent years, conflicts on the African continent had tended to be intra-State rather than inter-State. Actors who engaged in

warfare therefore had to consider the manner in which they waged war rather than the question of whether their State was party to a particular treaty. In accordance with the regulations of the African Union, military leaders were required to ensure that civilians were physically protected from the effects of warfare and that the areas around peace missions were sufficiently protected.

28. **Mr. Jochum** (Director General, Médecins sans frontières Switzerland), panellist, said that, in order to limit the impact of war on civilians, it was necessary to invest in diplomacy so that spaces of dialogue could be created when no dialogue was taking place. When a State was systematically violating international humanitarian law, steps should be taken to establish the facts of the situation and ensure accountability.

29. **Ms. Durham** (Director, International Committee of the Red Cross (ICRC)), panellist, said that, under common article 1 of the Geneva Conventions, respect for international humanitarian law must be ensured. Some States engaged in war in an indirect manner by supporting, training or providing material assistance to State and non-State belligerents, but even they were required to respect the obligations imposed by instruments such as the Arms Trade Treaty. In addition to humanitarian access in the field, there was also a need to establish spaces in which the parties concerned could engage in discussion on humanitarian issues, setting aside contentious political matters and focusing on the principles under which they should be operating.

30. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator) said that it was necessary to consider the role and obligations of all relevant State and non-State actors, including those that were able to exert influence on the belligerent parties without being directly involved in the conflict.

31. **The representative of Germany** said that governments had a duty to remind all relevant actors of their obligations under international humanitarian law and of the importance of safeguarding international humanitarian principles. She asked what humanitarian workers could do to enhance acceptance of their work and how they could acquire the expertise needed to persuade all actors, particularly armed actors, of the importance of their mission.

32. **The observer for Switzerland**, recalling the Secretary-General's suggestion in his report on strengthening the coordination of emergency humanitarian assistance (A/63/81-E/2008/71) that exemptions should be made in sanctions regimes and national legislation to mitigate the adverse consequences of counter-terrorism measures on humanitarian action, said that consideration could also be given to strengthening dialogue between State authorities with responsibility for counter-terrorism measures and representatives of humanitarian organizations. The obligations imposed by donors could be harmonized and exemption clauses could be introduced in regional or national legislation. He asked what recommendations the panellists would make to address the adverse consequences of counter-terrorism measures on humanitarian action.

33. Given that the regulations set out in international humanitarian law were considered to be fit for purpose, the main challenge was to ensure that they were respected and that repeated violations did not undermine the credibility of the law or the political will to ensure that it was upheld. Switzerland and ICRC were engaged in a process aimed at strengthening respect for humanitarian law, with a report to be issued in 2019 on the occasion of the thirty-third International Conference of the Red Cross and Red Crescent, for which it would be important to obtain the views of as many parties as possible. Switzerland and ICRC co-chaired the Montreux Document Forum, which enabled States to come together with other stakeholders to discuss best practices in the implementation of international obligations. All States that had not yet done so should ratify Protocols I and II additional to the Geneva Conventions, which contained very important provisions concerning the protection of health-care providers.

34. **The observer for Ukraine** said that her country was particularly mindful of its obligations concerning the protection of civilians, including health-care staff and humanitarian workers. Members of the Ukrainian armed forces were trained in the application of international humanitarian norms and principles in armed conflict, the training being delivered in cooperation with ICRC in Ukraine and other national and

international human rights organizations. In 2017, training in international humanitarian law had been provided to all ranks of the armed forces of Ukraine, including members of units returning from and transferring to areas where antiterrorist operations were being carried out. Since January 2014, Ukraine had allowed ICRC representatives to visit over 36 detention facilities and monitor the detention conditions of over 520 persons.

35. The Ministry of Temporarily Occupied Territories and Internally Displaced Persons had been made responsible for implementing international humanitarian law, monitoring compliance and taking steps to address violations, and the Government had recently adopted a resolution establishing an inter-agency commission on the implementation of international humanitarian law in Ukraine. Although much had been done to protect civilians since the start of the Russian aggression against Ukraine in 2014, a considerable amount of work remained to be done, for which Ukraine continued to count on the support and assistance of the international community. She asked what steps could be taken, aside from increasing the engagement of donor communities, to raise awareness of the humanitarian needs of affected populations.

36. **The observer for the Syrian Arab Republic** said that the subject under discussion raised questions about the historical relationship between *jus ad bellum*, *jus in bello* and the Charter of the United Nations. The fact that those branches of law had come to be considered separately did not mean that belligerents could wage war without respecting the Charter of the United Nations or the international obligations contained in it. The moderator had said that countries should mediate between parties, including in situations where they were defending their sovereignty from foreign interference or international terrorism. However, if the term "parties" was understood to include States then that statement could be considered problematic. Although the Charter of the United Nations prohibited countries from interfering in the internal affairs of a sovereign State, that prohibition had not been addressed in any way in the Secretary-General's report. International humanitarian law should not be used as a tool with which to cover up violations of the Charter, which remained the key text that guided all humanitarian work. He would also be interested to hear more about the regulations governing the provision of humanitarian assistance and how the consent of the parties concerned could be obtained in the context of international armed conflicts.

37. **Mr. Munn** (Director of Humanitarian Policy, Norwegian Refugee Council), panellist, said that the task of communicating the nature and importance of humanitarian work to all the actors concerned was a challenge to which different types of organization might adopt different approaches. As an organization whose funding depended on institutional partnerships with Member States, the Norwegian Refugee Council needed to work with donors to ensure that it was able to implement the training mechanisms and tools that its staff required. It needed funding mechanisms that provided for global access advisers and negotiation advisers at the national and regional levels. It also spread expertise through the provision of support to implementing partners and operational partners in different contexts, such as a programme soon to be launched on the training of trainers in the negotiation of humanitarian access.

38. In partnership with Switzerland, it was looking at the impact of counter-terrorism measures on principled humanitarian action, a subject on which the Council had first issued a paper in 2012. In 2016, through the Inter-Agency Standing Committee, the Council had produced a toolkit for risk management that examined the impact of counter-terrorism measures within different contexts, sharing its tools with other bodies as appropriate. The toolkit, which was being developed in conjunction with humanitarian country teams and national NGOs, was currently being field tested. At a global level, the Norwegian Refugee Council attempted to ensure that the relevant principles, and international humanitarian law, were embedded in the discussions surrounding the Grand Bargain on humanitarian financing, the New Way of Working and the 2030 Agenda for Sustainable Development.

39. **Mr. Dare** (Head, Humanitarian Affairs, Refugees and Internally Displaced Persons Affairs Division, African Union Commission) said that the African Union addressed questions of conflict resolution and management at a strategic level, endeavouring to bring together all actors in armed conflicts while seeking to establish a space for humanitarian assistance. Although civil society might not be a party to a given peace process, citizens

were encouraged to act as observers and pass on their concerns to members of the delegations. The African Union also took steps to ensure that victims were heard during peace processes. Efforts were being made to adopt a more investigative approach to situations and to establish commissions of inquiry to determine what was taking place and how humanitarian assistance could be provided to those who needed it. Humanitarian considerations were increasingly being seen as essential components of peace processes.

40. **Ms. Decrey-Warner** (President, Geneva Call), panellist, said that non-State actors were all different and therefore different approaches were needed to work with them. It was essential to establish a dialogue, build confidence and understand the constraints on the parties concerned, as well as to encourage them to take ownership of the relevant norms. The roles of the different actors should be seen as complementary, as organizations such as Geneva Call could do things that United Nations agencies and State actors could not, and so dialogue should take place to determine how their particular expertise could contribute to the common objective. Exemptions from criminalization under counter-terrorism measures should be granted to humanitarian workers without discrimination, to avoid the debate becoming politicized and States claiming that some NGOs were legitimate while others were not.

41. **Ms. Durham** (Director, International Committee of the Red Cross (ICRC)) said that humanitarian actors should be tenacious, principled and practical and pay greater attention to compound vulnerabilities, including issues such as gender and the provision of assistance to persons deprived of their liberty. In decisions on the provision of humanitarian assistance and protection, they should consider communities individually in order to identify their specific needs. The Protocols I and II additional to the Geneva Conventions addressed issues that were of great relevance to the current discussion, including the prohibition of starvation as a method of warfare.

42. In considering the consequences of antiterrorism measures, it should be borne in mind that States required humanitarian organizations to work in an impartial manner but sometimes prevented them from doing so. Although it was relatively easy to justify funding earmarked for feeding children or providing health care, it was more difficult to attract funds for time-consuming tasks such as engaging with armed groups and States or training staff in international humanitarian law. Donor groups could give valuable support to organizations by providing non-earmarked funds that could be used for such purposes.

43. Protocol II additional to the Geneva Conventions provided that, even in non-international armed conflicts, actors were required to engage with the territorial State. However, for reasons of practicality and security, humanitarian organizations also frequently had to engage with non-State armed groups, while, in situations characterized by confusion over who was in power, it was sometimes difficult to engage with or obtain the consent of State authorities. Furthermore, as was clearly noted in the commentaries issued by ICRC, there may be exceptional circumstances in which a State might be neglecting its obligation to take care of its people. So, while obtaining the consent of the State party was of fundamental importance, the practicalities of the situation could not be ignored. As concerned the relationship between the laws of war and the Charter of the United Nations, it was deep and complex. The different areas of international law had to complement each other and be consistent.

44. **Mr. Jochum** (Director General, Médecins sans frontières Switzerland) said that humanitarian actors themselves could contribute greatly to enhancing acceptance of their work. Principled action was needed to maintain the neutrality of medical facilities, ensuring that patients were not selected on the basis of political criteria and that the facility did not become a ground for military action. Interactions with legitimate authorities must be conducted in such a way as to uphold the basic principles of medical ethics. There was also a need to negotiate with all stakeholders controlling a given area, whether they were State or non-State actors. Being clear and transparent about an organization's actions and objectives was also vital. However, humanitarian actors had no influence on issues related to State policy. It was thus necessary to create spaces for dialogue in situations where a State was seeking to prohibit treatment of certain groups of patients or prevent humanitarian organizations from operating in areas not under its control, or viewed medical care as material support for terrorism simply because the patients included wounded

opposition fighters. If unresolved, such situations could develop into a security issue for humanitarian workers in the field. In the run-up to the World Humanitarian Summit 2016, the most acute needs of populations trapped in conflict situations had been sidelined by discussion on the humanitarian-development-peace nexus, provoking fear that States might withdraw attention from the most acute humanitarian situations in areas of conflict. While concepts such as resilience were certainly valuable, they were not operative in societies whose services were collapsing. The issue required political attention and the present discussion was a positive step. In the context of counter-terrorism activities, medical relief must be exempt from any notion of material support to terrorism. It was also important to scrutinize the impact of counter-terrorism legislation on humanitarian activities.

45. **The representative of the World Food Programme** (WFP) said that it was important to share good practices implemented by parties to conflicts and humanitarian organizations. The Centre of Competence for Humanitarian Negotiations brought together a range of humanitarian actors in order to share knowledge, experience, tools and resources relating to humanitarian access and identify ways to strengthen the knowledge and capacity of field staff, many of whom were national and local staff. Non-State actors were invariably supported by States, but those same States, as donors, were often paying a higher price for the remote delivery of humanitarian assistance when they might instead be helping to negotiate unimpeded access. Some governments of member States of the African Union, for example, were composed of former non-State actors. The organization was thus well placed to provide guidance on ways to improve dialogue with non-State actors with the aim of facilitating access to conflict areas and thereby reducing the cost of delivering humanitarian assistance.

46. **The representative of the Office of the United Nations High Commissioner for Refugees** (UNHCR) said that, although humanitarian actors tended to focus largely on humanitarian access for assistance, access for protection was equally important. Protection must be placed at the core of humanitarian efforts and drive all interventions in order to ensure that assistance contributed to the protection of populations affected by conflict. The humanitarian community needed to deepen its knowledge of international humanitarian law, and the work conducted jointly with the Centre of Competence for Humanitarian Negotiations and that of ICRC on professional standards, among others, was highly relevant in that regard. Deployment of protection experts who could provide advice in complex situations of non-compliance was also crucial. Although humanitarian action had its limits, humanitarian actors could use proximity and presence on the ground to lend a voice to communities affected by conflict, raise concerns and mobilize action.

47. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator) said that it would be useful to learn more about panellists' views on the role of women in humanitarian negotiations, training and skills, the role of the private sector and ways to enhance partnerships with the International Coalition for the Responsibility to Protect and similar initiatives.

48. **The representative of the United Nations Mine Action Service** said that humanitarian actors operated in an environment characterized by the urbanization of warfare, a growing number of suicide attacks and the intensification of conflicts involving the use of large amounts of weaponry. In that context, it was crucial to discuss measures to prevent the intentional killing or injury of civilians. There was an unfortunate trend in international forums to describe targeted attacks against civilians and civilian objectives as "indiscriminate attacks". It was important to discuss action to enforce sanctions against individuals or States that encouraged or resorted to disproportionate attacks against civilians. States parties to international humanitarian treaties must continue to set an example and create conditions that were conducive to lawfulness. She reminded all States of their obligation to record and transmit information on the use of certain weapons under the Convention on Certain Conventional Weapons, which was crucial to humanitarian access and programming.

49. **Mr. Jochum** (Director General, Médecins sans frontières Switzerland) said that there were immense gaps in the protection of civilians in armed conflict and of persons fleeing from conflict zones. In addition to delivering humanitarian assistance, the international community had a duty to protect those populations by reining in the violence

and addressing the needs of internally displaced persons, refugees and people on the move. His organization was exposed to multiple situations of displacement and was gravely concerned over policies of containment, deterrence, ill-treatment and refoulement to unsafe areas that took precedence over solidarity and protection. There was a growing trend for States to view population movements primarily as a threat to national security, with the offer of safety and solidarity becoming the exception. The need for safety and protection of those fleeing danger must therefore be reaffirmed.

50. **Ms. Decrey-Warner** (President, Geneva Call) said that women were not only victims of armed conflict, but could also make an important contribution to conflict resolution. It was therefore important to train them in international humanitarian law and women's rights and involve them in peace negotiations. When negotiating with armed non-State actors, her organization requested, as a rule, that women should form part of the delegation. Small humanitarian agreements on individual issues such as prisoners or demining operations were important confidence-building measures and formed a good basis for subsequent negotiation of more comprehensive agreements. In line with the growing recognition of the value of humanitarian protection, Geneva Call had recently signed a Framework Partnership Agreement with the European Commission's Humanitarian Aid and Civil Protection department. In light of the experiences drawn from engagement with non-State actors, it might be useful to discuss the topic in the United Nations Security Council. Such a discussion could help identify successful — and unsuccessful — practices and provide a forum for humanitarian actors to share their experiences with States. There was broad agreement that civilians living in areas under the control of a non-State armed group had the same right to health care, education and humanitarian assistance and protection as those living in State-controlled areas. It was thus important to discuss ways to deliver assistance in areas controlled by non-State actors in order to ensure that those services remained operational.

51. **Mr. Dare** (Head, Humanitarian Affairs, Refugees and Internally Displaced Persons Affairs Division, African Union Commission) said that it was important to make States aware that humanitarian organizations sometimes needed to negotiate with non-State actors in conflict situations in order to facilitate humanitarian relief. African States currently faced a situation where they were unable to respond to emerging human-induced famine in conflict areas, as the resolution of the conflicts depended on broader, time-consuming peace processes. It was therefore crucial to open spaces for humanitarian assistance and protection through negotiations and to increase advocacy work around humanitarian protection. The African Union cooperated with UNHCR through the Comprehensive Refugee Response Framework on the development of national and regional programmes to improve protection.

52. **Mr. Munn** (Director of Humanitarian Policy, Norwegian Refugee Council) said that, while humanitarian assistance could be managed remotely, protection could not. That reality must be borne in mind when talking about technology and the role of innovation in connection with humanitarian access for assistance and protection. It was unfortunate that women were mostly seen as beneficiaries of peace negotiations, rather than as negotiators, and more must be done to engage women in negotiating peace for their countries and communities.

53. **Mr. O'Brien** (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator), summing up, said that it was important to remember that the current discussion was about the most vulnerable people on the planet. Some 80 per cent of humanitarian assistance was currently delivered in the context of man-made armed conflict settings. The proportion of intra-State and urban conflicts was increasing and broad non-compliance with international humanitarian law created a protection and assistance gap. Mass displacement and the current refugee crises were ultimately a result of that non-compliance. It was therefore crucial to restore lawfulness at all levels and to raise awareness of international humanitarian law and its practical application among all parties to a conflict, including armed non-State actors. States had an opportunity and a duty to set an example. Security Council resolution 2286 (2016) on the protection of civilians in armed conflict could be used as a checklist of practical measures to guarantee safe and unimpeded passage for medical and humanitarian assistance. There was also a need to create a safe space for dialogue on international humanitarian law with both States and non-State actors,

to control arms transfer, invest in diplomacy to resolve crises, create an enabling environment for negotiations with non-State armed groups and ensure that counter-terrorism measures did not impede such engagement. Humanitarian action must respect State sovereignty. At the same time, sovereign States had an obligation to abide by international humanitarian law, protecting civilians, enabling proximity so that humanitarian actors could protect by the fact of their presence and allowing for the passage of humanitarian relief. Women were a tremendously underutilized resource when it came to creating safe dialogue spaces.

*The meeting rose at 1.05 p.m.*